

ALLEN TURNER

IBLA 81-516

Decided July 28, 1981

Appeal from decision of California State Office, Bureau of Land Management, declaring mining claim CA MC 30661 abandoned and void.

Affirmed.

1. Federal Land Policy and Management Act of 1976: Recordation of Mining Claims and Abandonment -- Mining Claims: Abandonment -- Mining Claims: Assessment Work -- Mining Claims: Recordation

Under sec. 314(a) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. § 1744(a) (1976), and 43 CFR 3833.2-1(c), the owner of unpatented mining claims located in the calendar year 1979, must have filed with the Bureau of Land Management (BLM), affidavits of assessment work or notice of intention to hold the mining claims on or before Dec. 30, 1980, or the claims are conclusively deemed abandoned and, thus, void.

2. Notice: Generally -- Regulations: Generally -- Statutes

All persons dealing with the Government are presumed to have knowledge of relevant statutes and duly promulgated regulations.

APPEARANCES: Allen J. Turner, pro se.

OPINION BY ADMINISTRATIVE JUDGE FRAZIER

Allen J. Turner appeals from the March 16, 1981, decision of the California State Office, Bureau of Land Management (BLM), which declared the Aspen No. 1 placer mining claim abandoned and void for failure to file timely evidence of assessment work or a notice of intention to hold for the 1980 assessment year as required by section 314 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. § 1744

(1976), and Departmental regulation, 43 CFR Part 3833. The claim was located in July 1979 and recorded with BLM in August of the same year. The evidence of assessment was due to be filed with BLM on or before December 30, 1980, but was not received until February 2, 1981.

In his statement of reasons for appeal appellant states that he was unfamiliar with the filing procedures and that failure to file the evidence of assessment timely was due to not knowing the filing times.

[1] Section 314 of the Federal Land Policy and Management Act, 43 U.S.C. § 1744(a) (1976) and its implementing regulations, 43 CFR 3833.2-1(c) require that for claims located after October 21, 1976, evidence of annual assessment work must be filed yearly on or before December 30 with the proper BLM office beginning the year following the calendar year of location. Pursuant to 43 CFR 3833.4(a), the failure to satisfy the filing requirement of 43 CFR 3833.2-1(c) shall result in a conclusive presumption of abandonment and the claim shall be void. See 43 U.S.C. § 1744(c) (1976).

When appellant failed to file timely either evidence of assessment work or a notice of intention to hold the claim, BLM properly held the claim abandoned and void. Robert Keough, 54 IBLA 337 (1981).

[2] It is unfortunate that appellant was confused concerning the recordation requirements of assessment work but such confusion is not a sufficient basis to prevent the voiding of the claim as required by 43 CFR 3833.4(a). All persons dealing with the Government are presumed to have knowledge of relevant statutes and duly promulgated regulations. 44 U.S.C. § 1507, 1510 (1976); Federal Crop Insurance Corp. v. Merrill, 332 U.S. 380 (1947); Dale Henkens, 52 IBLA 9 (1981); Clifford O. Kelch, 50 IBLA 127 (1980).

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

Gail M. Frazier
Administrative Judge

We concur:

Bruce R. Harris
Administrative Judge

C. Randall Grant, Jr.
Administrative Judge

